

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NICOLE LOGAN, et al.,
Plaintiffs,

v.

CITY OF PULLMAN POLICE
DEPARTMENT, et al.,

Defendants.

No. CV-04-214-FVS

ORDER GRANTING SECOND MOTION
FOR APPROVAL RE: CLASS NOTICE
AND DENYING PLAINTIFFS'
MOTION FOR PARTIAL
RECONSIDERATION OF COURT'S
ORDER OF APRIL 12, 2006 RE:
CLASS NOTICE

BEFORE THE COURT is Plaintiffs' Second Motion for Approval Re: Class Notice (Ct. Rec. 403) and Plaintiffs' Motion for Partial Reconsideration of Court's Order of April 12, 2006 Re: Class Notice (Ct. Rec. 407). Plaintiffs are represented by Darrell Cochran and Thaddeus Martin. Defendants are represented by Andrew Cooley, Stewart Estes, Kim Waldbaum and Richard Jolley.

Second Motion for Approval Re: Class Notice

Plaintiffs' Second Motion for Approval Re: Class Notice seeks the Court's approval of the second proposed Class Notice forms for publication and for individual mailing. (Ct. Rec. 405, Ex. 2 & Ex. 3). Defendants join in Plaintiffs' motion. After reviewing these documents, the Court determines the proposed notices comply with the Court's Order dated April 12, 2006. Accordingly, Plaintiffs' Second Motion for Approval Re: Class Notice is granted.

ORDER GRANTING SECOND MOTION FOR APPROVAL RE: CLASS NOTICE AND
DENYING PLAINTIFFS' MOTION FOR PARTIAL RECONSIDERATION OF COURT'S
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Plaintiffs' Motion for Partial Reconsideration

Plaintiffs seek partial reconsideration of the Court's Order of April 12, 2006 Re: Class Notice. That Order instructed Plaintiffs' counsel to publish the Class Notice for at least ten (10) consecutive days in the *Seattle-Post Intelligence*, *Seattle Times*, *Tacoma News Tribune*, *Spokesman Review*, *Moscow News*, and the Washington State University student newspaper. Plaintiffs move for reconsideration, requesting the Court narrow the breadth of the required publications on the basis that the cost of running the notice in all of these publications is \$140,129.06.

Federal Rule of Civil Procedure 23(c)(2)(B) provides, in relevant part:

For any class certified under Rule 23(b)(3), the court must direct to class members *the best notice practicable under the circumstances*, including individual notice to all members who can be identified through reasonable effort.

Relying on the italicized language, Plaintiffs argue the cost of the published notice ordered by the Court is not practicable and is extremely burdensome. Plaintiffs contend publishing the notice in alternative newspapers will reduce the cost and still provide the "best notice practicable under the circumstances[.]"

However, as the Court previously noted, cost is not necessarily a relative consideration under Rule 23(b)(3). Order, at 3:2-6 ("There is nothing in Rule 23 to suggest that the notice requirements can be tailored to fit the pocketbooks of particular plaintiffs.") (citing *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 177, 94 S.Ct. 2140, 2152, 40 L.Ed.2d 732 (1974)). Further, Plaintiffs haven't cited any

1 authority supporting their argument that the previously ordered
2 publication is unduly burdensome. Moreover, Defendants note that they
3 made phone calls to the *Seattle Post Intelligence*, *Seattle Times*, and
4 the *Tacoma News Tribune* and learned Plaintiffs could save at least
5 \$40,000 under different contract options.

6 Since more than 50 of the 130 representative Plaintiffs live or
7 grew up in the Seattle and/or Tacoma area, it is likely that many of
8 the unnamed Plaintiffs live in the same surrounding area. Under these
9 circumstances, and considering the short period of time between the
10 publication of the notices and the trial date, the Court is not
11 convinced that Plaintiffs' suggested alternative publications would
12 ensure the "best notice practicable." Rather, the Court determines
13 publication in the larger newspapers is appropriate and necessary.
14 Therefore, Plaintiffs' Motion for Partial Reconsideration is denied.
15 Accordingly,

16 **IT IS HEREBY ORDERED:**

17 1. Plaintiffs' Second Motion for Approval Re: Class Notice (**Ct.**
18 **Rec. 403**) is **GRANTED**.

19 2. Plaintiffs' Motion for Partial Reconsideration of Court's
20 Order of April 12, 2006 Re: Class Notice (**Ct. Rec. 407**) is **DENIED**.

21 **IT IS SO ORDERED.** The District Court Executive is hereby
22 directed to enter this Order and furnish copies to counsel.

23 **DATED** this 24th day of April, 2006.

24 s/ Fred Van Sickle

25 Fred Van Sickle

26 United States District Judge